

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed September 25, 2006 (the "Office Action"). Claims 1-37 are pending in the Application and stand rejected. Applicants amend Claims 1-2, 14-15, 27 and 32, cancel Claims 3 and 16 and add new Claim 38. Applicants respectfully request reconsideration and favorable action in this case.

**Section 101 Rejection**

The Office Action rejects Claims 32-37 under 35 U.S.C. §101 because the Office Action contends that the claimed invention is directed to non-statutory matter. Applicants have amended independent Claim 32 to recite a "computer program comprising software embodied in a computer readable medium." Applicants thus respectfully request withdrawal of the rejections.

**Section 102 Rejection**

Claims 1-5, 8, 9, 13-18, 21, 22, 26-29, 31-34, 36, and 37 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,002,760 issued to Gisby ("Gisby"). Applicants respectfully traverse these rejections.

Amended Claim 1 recites receiving a second call from the user over a second connection and detecting the presence of the user associated with the second connection. Claims 14, 27 and 32 recite similar elements. *Gisby* discloses a call queuing system for a call center that establishes a virtual call for a caller and allows the caller to disconnect. *See Gisby*, Abstract, col. 5, lines 10-14. When the virtual call reaches the head of the queue and an appropriate agent is determined to be available to take the call, an IVR places an out-going call to the caller. *See id.*, col. 5, lines 15-20. *Gisby* states that "[i]t is through this outdialing ability that a caller such as callers 1-7 may physically disconnect from call center 19 of FIG. 1 without losing position in queue which are represented by virtual calls 1-7." *Gisby*, col. 6, lines 47-51. *Gisby* does not disclose receiving a second call from the user over a second connection and detecting the presence of the user associated with the second connection. Therefore, for at least these reasons, Applicants respectfully submit that Claims 1, 14, 27 and

32 are patentable over the cited art used in the rejections and request that the rejections of these claims be withdrawn.

Claims 2, 4-5, 8-9 and 13 each depends from Claim 1; Claims 15, 17-18, 21-22 and 26 each depends from Claim 14; Claims 28-29 and 31 each depends from Claim 27; and Claims 33-34 and 36 each depends from Claim 32. Thus, for at least the reasons discussed above with respect to Claims 1, 14, 27 and 32 Applicants respectfully request that the rejections of Claims 2, 4-5, 8-9, 13, 15, 17-18, 21-22, 26, 28-29, 31, 33-34 and 36 be withdrawn.

Claim 37 recites "wherein the user may cycle between a call only state, a call and presence state and a presence only state, while maintaining the place of the call in the order in the queue." The Office Action does not cite any portion of *Gisby* as disclosing this element. Moreover, no portion of *Gisby* discloses this element. Therefore, for at least these reasons, Applicants respectfully submit that Claim 37 is patentable over the cited art used in the rejection and request that the rejection of this claim be withdrawn.

### **Section 103 Rejection**

Claims 6, 7, 10-12, 19, 20, 23-25, 30 and 35 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Gisby*. Applicants respectfully traverse these rejections.

Claims 6-7 and 10-12 each depends from Claim 1; Claims 19-20 and 23-25 each depends from Claim 14; Claim 30 depends from Claim 27; and Claim 35 depends from Claim 32. Thus, for at least the reasons discussed above with respect to Claims 1, 14, 27 and 32 Applicants respectfully request that the rejections of Claims 6-7, 10-12, 19-20, 23-25, 30 and 35 be withdrawn

### **New Claim**

Applicants add new Claim 38 which is fully supportable by the original specification as filed. No new matter has been added. Claim 38 recites "updating the user of a status of the virtual contact in the queue before the virtual contact reaches a head of the queue."

Applicants respectfully submit that no cited art used in the rejections discloses this element. For example, *Gisby* discloses placing an out-going call to a caller when the caller's virtual call reaches the head of the queue, but there is no disclosure of updating a user of a status of a virtual contact in the queue before the virtual contact reaches a head of the queue. Therefore, Applicants respectfully request allowance of new Claim 38.

**CONCLUSION**

Applicants have now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge \$200 as payment for the required fee to add one independent claim, any other fees or to credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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